REMARKS

After entry of the above amendments, the claims pending in the subject application are 1-46. Claims 27-46 are subject to the Rejoinder provisions of MPEP 821.04 because they contain all of the elements of the independent composition claims from which they depend. Reconsideration of this application based on the Amendments and Remarks presented herein is respectfully requested.

Claim 1 was amended. Support can be found in paragraphs [0027] and [0035].

CLAIM OBJECTIONS

Claims 2 and 15 were objected to for missing the word "the" between "from" and "group". Claims 2 and 15, as well as claims 28 and 38, have been amended to insert the word "the".

Claims 10-11 and 23-24 were objected to for using "titanium dioxide", but the claims from which they depend recite "titanium oxide". The titanium dioxide refers to a selection for the colorant. Titanium oxide is one possibility for a coating on the pearlescent particle. The two terms refer to different materials. Because they are each used in conjunction with different materials, it is respectfully submitted that the terms do not need to match.

35 U.S.C. § 103 REJECTIONS

Claims 1, 3, 4, 6-12, 14, 16-17, and 19-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,685,920 to Baig *et al.* in view of United States Patent No. 6,491,898 to Yamagishi *et al.*

Yamigishi '898 discloses a tooth coating composition that includes a polymer (abstract) and which can contain inorganic pigments, such as mica titanium, titanium oxide, or powder of shell, or an organic pigment, such as fish scale guanine (column 4, lines 25-29). The amount of the pigment is generally 0.1 to 10% weight percent. In examples 1-14 and comparative examples 1 and 2, Yamigishi '898 teaches that titanium oxide and mica titanium can be selected to be present at 0.95 weight % each (1 g / 105 g (15g polymer, 1g titanium oxide, 1g mica titanium, and 88g ethanol)). What is not

disclosed or suggested in Yamigishi '898 is the selection of a colorant and pearlescent particles in combination in the amounts claimed in independent claims 1 and 14.

Baig '920 discloses protecting teeth from erosion by using polymeric mineral surface-active agents selected from the group consisting of condensed phosphorylated polymers; polyphosphonates; polycarboxylates and carboxy-substituted polymers; copolymers of phosphate- or phosphonate-containing monomers or polymers with ethylenically unsaturated monomers, amino acids, or with other polymers selected from proteins, polypeptides, polysaccharides, poly(acrylate), poly(acrylamide), poly(methacrylate), poly(ethacrylate), poly(hydroxyalkylmethacrylate), poly(vinyl alcohol), poly(maleic anhydride), poly(maleate) poly(amide), poly(ethylene amine), poly(ethylene glycol), poly(propylene glycol), poly(vinyl acetate) or poly(vinyl benzyl chloride); and mixtures thereof, wherein said polymeric mineral surface-active agent is substantive to teeth and deposits a layer that protects teeth from erosive damage (column 2, lines 41-60).

It was acknowledged in the Office Action mailed on October 13, 2006 on page 3 that Baig '920 does not disclose pearlescent particles.

Baig '920 discloses that titanium dioxide can be present at 0.25 to 5% by weight of the composition to opacify the composition (column 11, lines 43-47). Coloring agents can be added in amounts of 0.01 to 5% by weight of color solutions that contain 1% by weight coloring agent (column 11, lines 48-52). At this rate, coloring agents themselves are present at 0.001 to 0.05% by weight. In Formulas A to E in column 16, Baig '920 teaches that titanium dioxide should be selected at 0.5 weight percent and that FD&C Blue #1 should be selected at 0.025 weight percent for a 1% solution (0.00025 weight percent of coloring agent itself). This teaches that coloring of compositions should be kept to low levels.

If Baig '920 is combined with Yamagishi '898, the teachings of Baig '920 would suggest that the level of coloring be kept to low levels. Also, if Baig '920 and Yamagishi '898 were combined, they do not put the claimed compositions of independent claims 1

and 14 in the possession of the public without the need for picking and choosing from among the variables.

> In order to anticipate a composition when a reference discloses multiple variables and combinations, the reference must describe the composition with enough detail such that the composition is in the possession of the public. *In re Brown*, 329 F. 2d 1006, 1011, 141 U.S.P.Q. 245, 249 (C.C.P.A. 1964). Also, the reference must clearly and unequivocally disclose the composition or direct those skilled in the art to the composition without any need for picking, choosing, and combining various disclosures not directly related to each other by the teachings of the reference. *In re Arkley*, 455 F.2d 586, 587, 172 U.S.P.Q. 524, 526 (C.C.P.A. 1972). Additionally, under the obviousness standard, while it may be obvious to try to vary all parameters or try each of numerous possible choices, the reference must suggest the combination and selection of parameters for the composition. *In re O'Farrell*, 853 F.2d 894, 903, 7 U.S.P.Q.2d 1673, 1681 (Fed. Cir. 1988).

Here, Baig '920 and Yamagishi '898 do not disclose the selection of coloring agent and pearlescent particles in the claimed amounts to arrive at the claimed combination. In independent claim 1, the selection is at least 1 weight percent coloring agent in combination with at least 1 weight percent pearlescent particles. In independent claim 14, the selection is at least about 1 weight percent coloring agent in combination with at least about 3 weight percent pearlescent particles. These combinations are not disclosed or suggested by Baig '920 and Yamagishi '898 without the need for picking and choosing from among all of the variables, and the selections of amounts in Baig '920 and Yamagishi '898 teach away from the claimed selections. Therefore, it is respectfully submitted that claims 1, 3, 4, 6-12, 14, 16-17, and 19-25 are patentable over United States Patent No. 6,685,920 to Baig *et al.* in view of United States Patent No. 6,491,898 to Yamagishi *et al.*

Claims 2, 5, 13, 15, 18, and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,685,920 to Baig *et al.* in view of United States Patent No. 6,491,898 to Yamagishi *et al.* above and further in view of United States Patent No. 6,729,878 to Choen *et al.*

Claims 2, 5, and 13 depend from independent claim 1, and claims 15, 18, and 26 depend from independent claim 14. From above, independent claims 1 and 14 are patentable over the cited references. When an independent claim is patentable, claims that depend from the independent claim are also patentable. Therefore, it is respectfully submitted that claims 2, 5, 13, 15, 18, and 26 are patentable over United States Patent No. 6,685,920 to Baig *et al.* in view of United States Patent No. 6,491,898 to Yamagishi *et al.* and United States Patent No. 6,729,878 to Choen *et al.*

In view of the amendments and remarks contained above, Applicants respectfully request reconsideration of the application, withdrawal of the 35 U.S.C. § 103 rejections, request Rejoinder of claims 27-46, and request that a Formal Notice of Allowance be issued for claims 1-46. Should the Examiner have any questions about the above remarks, the undersigned attorney would welcome a telephone call.

Respectfully submitted,

Hoic *et al.*

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